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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/028,834	12/20/2001	Carsten Behrensmeier	V201-0634 (VGT 0272 PA)	3342
7590 Steven W. Hays Suite 250 28333 Telegraph Road Southfield, MI 48034			EXAMINER MARSH, STEVEN M	
			ART UNIT 3632	PAPER NUMBER

DATE MAILED: 12/30/2003

Please find below and/or attached an Office communication concerning this application or proceeding.

# Office Action Summary

Applicant N .

10/028,834.

Applicant(s)

BEHRENSMEIER ET AL.

Examiner

Steven M Marsh

Art Unit

3632

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --  
Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

## Status

- 1) ☒ Responsive to communication(s) filed on 18 September 2003.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

## Disposition of Claims

- 4) ☒ Claim(s) 10,12-15 and 20-22 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 10,12-15 and 20-22 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

## Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

## Priority under 35 U.S.C. §§ 119 and 120

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- \* See the attached detailed Office action for a list of the certified copies not received.
- 13) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. § 119(e) (to a provisional application) since a specific reference was included in the first sentence of the specification or in an Application Data Sheet. 37 CFR 1.78.
- a) ☐ The translation of the foreign language provisional application has been received.
- 14) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121 since a specific reference was included in the first sentence of the specification or in an Application Data Sheet. 37 CFR 1.78.

## Attachment(s)

- 1) ☐ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO-1449) Paper No(s) \_\_\_\_\_
- 4) ☐ Interview Summary (PTO-413) Paper No(s). \_\_\_\_\_
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other:

### **DETAILED ACTION**

This is the third office action for U.S. Application 10/028,834 for a Composite Linkshaft Bracket filed by Carsten Behrensmeier et al. on December 20, 2001. Claims 1-9 and 16-19 have been withdrawn, claim 11 has been canceled and claims 20-22 have been added.

#### ***Claim Rejections - 35 USC § 103***

Claims 10, 12-15, 21, and 22 are rejected under 35 U.S.C. 103(a) as being unpatentable over Reid et al. in view of the prior art disclosed by Applicant in the specification. Reid et al. discloses a bracket with an upper portion (24a) that has a plurality of mounting holes that receive a pair of mounted studs (28), and an upper semi-circular region. The bracket also has a lower portion (24b) coupled to the upper portion that has a lower semi-circular region and a pair of inlets (any 2 of the holes that receive the bolts on the lower portion left over from the 2 mounting holes). The inlets couple with a corresponding one of the pair of mounted bolts and surround and support a shaft. The upper portion also has a plurality of raised ribbed regions (between the bolts 28).

Reid et al. does not disclose the materials used for the upper and lower portions of the bracket. Applicant discloses reinforced heat resistant aliphatic polyamide (a polymer with 30% glass fiber reinforcement) with a heat distortion temperature of 290 degrees Celsius as a known material manufactured by DSM Engineering Plastics. It would have been obvious to one of ordinary skill in the art at the time of the present

invention, to have used the known material disclosed in Applicant's specification, for the bracket taught by Reid et al., for the purpose of providing the bracket with a high heat distortion temperature and a specific natural minimum frequency (in this case 1080 Hertz).

Claim 20 is rejected under 35 U.S.C. 103(a) as being unpatentable over Reid et al. in view of the prior art disclosed in Applicant's specification, in further view of King et al. The bracket taught by Reid et al. in view of the prior art disclosed in Applicant's specification, does not specifically disclose a metal lower portion. King et al. discloses that journal blocks can be made of metal. It would have been obvious to one of ordinary skill in the art at the time of the present invention to have made the lower portion of the journal block taught by Reid et al. in view of the prior art disclosed by Applicant in the specification, out of metal, as known in the prior art and disclosed by King et al., for the purpose of increased strength.

### ***Response to Arguments***

Applicant's arguments filed October 21, 2003 have been fully considered but they are not persuasive. In response to applicant's arguments, the recitation "used to support a bearing supported linkshaft in a vehicle driveline comprising" has not been given patentable weight because the recitation occurs in the preamble. A preamble is generally not accorded any patentable weight where it merely recites the purpose of a process or the intended use of a structure, and where the body of the claim does not depend on the preamble for completeness but, instead, the process steps or structural

limitations are able to stand alone. See *In re Hirao*, 535 F.2d 67, 190 USPQ 15 (CCPA 1976) and *Kropa v. Robie*, 187 F.2d 150, 152, 88 USPQ 478, 481 (CCPA 1951).

In response to applicant's arguments against the references individually, one cannot show nonobviousness by attacking references individually where the rejections are based on combinations of references. See *In re Keller*, 642 F.2d 413, 208 USPQ 871 (CCPA 1981); *In re Merck & Co.*, 800 F.2d 1091, 231 USPQ 375 (Fed. Cir. 1986).

In response to applicant's argument that the examiner's conclusion of obviousness is based upon improper hindsight reasoning, it must be recognized that any judgment on obviousness is in a sense necessarily a reconstruction based upon hindsight reasoning. But so long as it takes into account only knowledge which was within the level of ordinary skill at the time the claimed invention was made, and does not include knowledge gleaned only from the applicant's disclosure, such a reconstruction is proper. See *In re McLaughlin*, 443 F.2d 1392, 170 USPQ 209 (CCPA 1971).

In response to applicant's argument that there is no suggestion to combine the references, the examiner recognizes that obviousness can only be established by combining or modifying the teachings of the prior art to produce the claimed invention where there is some teaching, suggestion, or motivation to do so found either in the references themselves or in the knowledge generally available to one of ordinary skill in the art. See *In re Fine*, 837 F.2d 1071, 5 USPQ2d 1596 (Fed. Cir. 1988) and *In re Jones*, 958 F.2d 347, 21 USPQ2d 1941 (Fed. Cir. 1992). In this case, Applicant has

disclosed that plastics have been used to produce the brackets, and Applicant also has disclosed that DSM Engineering Plastics manufactures a known plastic. It would have been obvious to one of ordinary skill in the art at the time of the present invention to have used that known plastic to form the bracket taught by Reid et al., to provide a bracket with a certain heat distortion temperature. The natural frequency is a product of the material, therefore the bracket formed by Reid et al. in view of the prior art, would also have the minimum natural frequency claimed by Applicant. The King et al. reference provides a teaching that journal blocks can be made of metal for providing strength, which when combined with Reid et al. in view of the prior art, would make it obvious to form a journal block of metal for the purpose of increased strength.

### ***Conclusion***

**THIS ACTION IS MADE FINAL.** Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Steven Marsh whose telephone number is (703) 305-0098. The examiner can normally be reached on Monday-Friday from 8:00AM to 4:30 PM. Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is (703) 308-2168. The fax phone number for the organization where this application or proceeding is assigned is (703) 872-9306.

  
Steven Marsh

December 23, 2003

  
Korie Chan

Primary Examiner